



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

FONDREN ORTHOPEDIC GROUP

Carrier's Austin Representative

Box Number 01

MFDR Date Received

July 15, 2013

Respondent Name

LIBERTY MUTUAL FIRE INSURANCE

MFDR Tracking Number

M4-13-3020-01

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Claim was processed and denied stating provider is not within the Liberty Healthcare Network. However prior authorization obtained auth # is 123410115S001001. We are respectfully requesting you reprocess this claim and pay accordingly."

Amount in Dispute: \$1,038.71

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "This is a network claim. The provider is not a network provider. This is a network claim but the provider is not [sic] participating in the Liberty HCN. Preauthorization was requested for this service but preauthorization by the carrier addresses medical necessity only and does not substitute for authorization by the Network for treatment outside the Network."

Response Submitted by: Liberty Mutual Insurance Company

DISPUTED SERVICES SUMMARY

Dates of Service	Disputed Services	Amount In Dispute	Amount Ordered
December 13, 2012	L1932	\$1,038.71	\$0.00

BACKGROUND

1. 28 Texas Administrative Code §133.307, 37 TexReg 3833, applicable to medical fee disputes filed on or after June 1, 2012, sets out the procedures for resolving medical fee disputes.
2. Texas Insurance Code Chapter 1305 applicable to Health Care Certified Networks

FINDINGS AND DECISION

Issue

1. Did the requestor meet the conditions outlined in the applicable portions of the Texas Insurance Code (TIC), Chapter 1305 to file for medical fee dispute resolution?
2. Is this dispute eligible for medical fee dispute resolution pursuant to 28 Texas Administrative Code §133.307?

Findings

Fondren Orthopedic Group filed this medical fee dispute to the Division asking for resolution pursuant to 28 Texas Administrative Code (TAC) §133.307 titled *MDR of Fee Disputes*. The authority of the Division of Workers' Compensation to apply Texas Labor Code statutes and rules, including 28 TAC §133.307, is limited to the conditions outlined in the applicable portions of the Texas Insurance Code (TIC), Chapter 1305. In particular, TIC §1305.153 (c) provides that "Out-of-network providers who provide care as described by Section 1305.006 shall be reimbursed as provided by the Texas Workers' Compensation Act and applicable rules of the commissioner of workers' compensation." Fondren Orthopedic Group therefore has the burden to prove that the condition(s) outlined in Texas Insurance Code §1305.006 were met in order to be eligible for dispute resolution of the facility services provided. The following are the Division's findings.

1. Texas Insurance Code Section 1305.006 requires, in pertinent part, that "(3) health care provided by an out-of-network provider pursuant to a referral from the injured employee's treating doctor that has been approved by the network pursuant to Section 1305.103."

Texas Insurance Code Section 1305.103 requires, in pertinent part, that "(e) A treating doctor shall provide health care to the employee for the employee's compensable injury and shall make referrals to other network providers, or request referrals to out-of-network providers if medically necessary services are not available within the network. Referrals to out-of-network providers must be approved by the network..."

The requestor, Fondren Orthopedic Group, has the burden to prove that it obtained the appropriate approval from Liberty Healthcare Network for the out-of-network care it provided. The requestor, Fondren Orthopedic Group, in its request for reconsideration dated April 18, 2013 states "Claim was processed and denied stating provider is not within the Liberty Healthcare Network. However prior authorization obtained auth # is 123410115S001001. We are respectfully requesting you reprocess this claim and pay accordingly." Review of the submitted documentation revealed that the insufficient documentation was found to support that Fondren Orthopedic Group received its own, separate referral from Liberty Healthcare Network to treat the injured employee at its location. The Division concludes that Fondren Orthopedic Group did not receive a referral from the Liberty Healthcare Network to treat the injured employee, thereby failing to meet the requirements of Texas Insurance Code Section 1305.006(3).

2. The requestor Fondren Orthopedic Group failed to prove in this case that the requirements of Texas Insurance Code Section 1305.006(3) were met. Consequently, the services in dispute are not eligible for medical fee dispute resolution pursuant to 28 Texas Administrative Code §133.307.

DECISION

Based upon the documentation submitted by the parties, the Division has determined that this dispute is not eligible for resolution pursuant to 28 Texas Administrative Code §133.307.

Authorized Signature

_____ Signature	_____ Medical Fee Dispute Resolution Officer	October 30, 2014 Date
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YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, effective May 31, 2012, 37 *Texas Register* 3833, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim. The party seeking review of the MDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision* together with any other required information specified in 28 Texas Administrative Code §141.1(d).**